IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.8044/07
Nathua Lal Vs. State of Raj. & Ors.

3.10.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Vijay Pathak for petitioner.

The petitioner has filed this writ petition seeking mandamus that the respondents be directed to hold re-election for the post of Chairman, Gram Seva Sahakari Samiti, Sasedi, Tehsil and District Karauli.

The learned counsel for the petitioner has argued that elections for the members and Chairman of Gram Seva Sahakari Samiti, Sasedi had taken place on 21.12.2006 and 11 members were elected. The respondent no.4 was elected as Chairman with the support of six members

while the petitioner was having support of five members. Subsequent to the date of election, two members namely Narottam and Maya Devi were declared disqualified and their election was cancelled by order dated 28.6.2007. It was argued that now the petitioner in view of support of five members has majority number of votes in his favour. The petitioner has produced on record copy of the affidavits given by four of these members.

Learned counsel for the petitioner in spite of being specifically asked as to how the election of the office of Chairman was vitiated on account of the fact that out of eleven members of the Gram Seva Sahakari Samiti, two have been declared disqualified to hold that office, could not point out any law or the provision to show that when these two members

originally cast their votes in favour of the respondent no.4. Subsequent order declaring them disqualified cannot retrospectively affect the validity of the election. Mere filing of affidavits by other four members also cannot have the effect of invalidating an otherwise valid election which can be challenged only in accordance with the prescribed procedure.

In the circumstances, therefore, a mandamus directing the respondents to hold fresh election cannot be issued.

The writ petition being misconceived is dismissed.

(Mohammad Rafiq),J.

Rs/-